IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Summary Suit No.1369 of 2004
with
Summons for Judgment No.130 of 2007

Shamji Roopa Patel (Gami) ..Plaintiff

vs.

The Director, Head Multimedia Ltd. ..Defendant

Mr.Prashant K.Hegde for plaintiff.
None for defendant.

**CORAM: S.C.DHARMADHIKARI J.**
16th **July, 2007**

**P.C.**

1. Mr.Hegde states that the defendants have been duly served in as much as the chamber order was obtained after the packet returned unserved and thereafter substituted service is effected by newspaper publication on 22nd December, 2005. Affidavit proving the same is filed on 26th September, 2006. From the affidavit I am satisfied that the writ of summons has been duly served on the defendants.

2. This is a summary suit and the claim is on the basis that the defendants were supplied goods (stationery items) at their establishment/office premises from November to May 2001 worth Rs.1,22,712/- The goods have been duly accepted and invoices as well without raising any protest.

In this behalf, my attention is invited by Mr.Hegde to paras 2 to 4 of the plaint. Even after the demands were made, the amounts were not paid and reliance is placed upon the suit notice and acknowledgement. Mr.Hegde states that part of the claim is beyond time and, therefore, the same is restricted by the plaintiff only to Rs.67,947/-

3. The suit of the plaintiff is based upon the written contract as evidenced by the invoices/bills and delivery challans. There is also a demand made and letter/notice issued, a copy of which is annexed at page 73 of the plaint, is duly received by the defendant.

4. There is no denial of the liability by the defendants. There is no dispute raised by filing the vakalatnama as well. Thus, there is no defence to the claim in the suit. The suit is maintainable as a summary suit and upon the claim being restricted by the plaintiff in the manner set out in the plaint, there is no bar of limitation as well. The plaintiff has satisfied all ingredients of Order 37 of Code of Civil Procedure. In such circumstances, this Court is taking all the original documents on record together with the affidavit proving service. There will be a decree as prayed . Advocate’s costs to be computed as per rules. The list of original documents along with the original documents are taken on record and marked "X" for identification.

5. In view of the above decree in the suit and for failure of the defendants to appear and file vakalatnama there is no warrant in passing any order on the summons for judgment no.130 of 2007 which in any event does not survive and as such disposed of.

**(S.C.DHARMADHIKARI J.)**